him that he (Ward) had not lived on the homestead entry, and that he thought that he was going to lose it. We think that this testimony sustains the averments of the bill that the patent was obtained by fraud. This is not a case where the courts are undertaking to review the decisions of the land office officials on questions of fact nor to reverse their discretion properly exercised. It is a case of fraud upon them and obtaining a patent by means of that fraud.

Does appellant occupy the position of the innocent purchaser, and is the Government precluded from receiving the relief prayed for in the bill because of such fact? The answer to the question depends upon a proposition of law, and whether J. J. McCaskill had knowledge of the fraudulent acts of Ward. This knowledge was, in effect, found by both the lower courts, and, giving to their finding the strength that should be accorded to it, we pass to the consideration of the proposition of law that the knowledge of J. J. McCaskill, though president of the McCaskill Company, cannot be imputed to it because, as appellants' argument is, while the knowledge of an agent is the knowledge of the principal, an "exception to the rule is that if the agent is acting in a matter in which he has a personal interest, or in communication with which he is interested with a third person, the presumption is that he will not communicate the facts in controversy." And it is urged that "the rule should be more rigidly applied in cases of fraud or torts." For these propositions appellant cites *Clark* v. *Metropolitan Bank*, 3 Duer (N. Y.), 241; *Frenkel* v. *Hudson*, 82 Alabama, 162; *Allen* v. *South. P. R. R. Co.*, 150 Massachusetts, 200; *Innerarity* v. *Mer. Natl. Bank*, 139 Massachusetts, 332; *Atlantic National Bank* v. *Harris*, 118 Massachusetts, 147; *Loring* v. *Brodie*, 134 Massachusetts, 453; *Hightstown* v. *Christopher*, 40 N. J. L. 435.

Undoubtedly a corporation is, in law, a person or entity entirely distinct from its stockholders and officers. It may have interest distinct from theirs. Their interests, it may be conceived, may be adverse to its interest, and hence has arisen

against the presumption that their knowledge is its knowledge, the counter presumption that in transactions with it when their interest is adverse their knowledge will not be attributed to it. But while this presumption should be enforced to protect the corporation it should not be carried so far as to enable the corporation to become a means of fraud or a means to evade its responsibilities. A growing tendency is therefore exhibited in the courts to look beyond the corporate form to the purpose of it and to the officers who are identified with that purpose. Illustrations are given of this in Cook on Corporations, §§ 663, 664 and 727. The principle was enforced in this court in *Simmons Creek Coal Company* v. *Doran*, 142 U. S. 417. In that case a corporation claimed title to land through a deed of its corporators, one of whom became its president. Of the effect of this the court said: "Associated together to carry forward a common enterprise, the knowledge or actual notice of all these corporators, and the president was the knowledge or notice of the company, and if constructive notice bound them it bound the company."

The case at bar is within the principle. The bill alleges that J. J. McCaskill and Robert E. L. McCaskill were copartners and engaged in the manufacture of lumber at Freeport, Fla. They incorporated this business, it is alleged, under the laws of Florida, "by the corporate name of J. J. McCaskill Company, with the said J. J. McCaskill as president and the said Robert E. L. McCaskill as secretary, owning a large majority of the stock of said corporation, with the entire management and control of the business and affairs of said corporation." There is no denial of this allegation. The interest of the corporators and the corporation thus shown to be identical, not adverse, we think the ruling in *Simmons Creek Coal Company* v. *Doran* is applicable.

This discussion disposes of the five assignments of error which were presented at the oral argument. The other assignments of error are based on rulings upon the admission of evidence.

These assignments are grouped by counsel in two classes. (1) one to three being based upon the action of the trial court in admitting the testimony of Antonine Paul, which we have given; (2) four to eighteen attack the ruling of the court in admitting testimony of the purchase by the company of other homestead claims.

To support the contention that the court erred in its ruling admitting the testimony of Paul it is urged that no foundation had been laid for it by an indication of time, place and circumstances. The record shows that these conditions were satisfied. The witness' attention was drawn to the statement by him to Paul, and he himself testified that it was made at his dwelling house, and testified that he signed the statement.

It is clear, therefore, that the witness was given opportunity to explain. The circumstances and occasion of making the statement were drawn to his attention and the person to whom it was made. He knew that Paul was a Government agent, seeking the exact facts as to his, the witness', settlement upon the land. He could not have underrated the importance of the relation of the statement to his testimony and the necessity of a clear explanation of it.

The statement was made the basis of a report to the land office and was introduced in evidence over the objection of the company's counsel. This seems more to have been done for a connected statement of the facts than for proof of them. The facts were testified to by Paul. We cannot see that there was prejudicial error in the ruling of the court.

The assignments of error in the second class are also without merit. The purpose of the testimony of other transactions, counsel say, was "to show a systematic course of dealing by McCaskill, such as would support a contention that he had guilty knowledge of whatever fraud might exist in the procurement of the patent in litigation." It is admitted that the testimony was competent for such purpose, but it is contended it should have been accompanied by evidence showing that such other transactions were false and fraudulent, and this,

it is insisted, was not done. If so, the testimony was harmless. In other words, if the testimony was not followed up by other testimony which was necessary to give it effect we may assume that the court below gave to it no value or probative strength. It must be kept in mind that the case was tried by the court.

Decree affirmed.